



in the U.S. market. The *Action Plan* identifies 23 priority sectors, including advanced manufacturing technologies and services; aerospace, defense and security; semi-processed and processed food and beverages; and cultural industries.

These business development activities benefit from agreements that have reduced barriers to trade and investment. In addition to the NAFTA, Canada and the United States are partners in the WTO, which has brought strengthened and improved rules and disciplines to many areas of international trade. The improved WTO dispute settlement provisions, together with the NAFTA, provide Canada with additional means to address bilateral trade irritants. Although the vast majority of Canada's trade with the United States proceeds problem-free, opportunities remain for increased and improved trade through the removal or modification of barriers in the United States.

Canada's Market Access Priorities

Over the coming year, Canada will:

- protect and enhance access to the U.S. market by exercising its rights under existing trade agreements and resisting U.S. measures that constrain Canada's access to its most important trading partner;
- continue to closely monitor, and address as appropriate to protect Canadian interests, key legislative and other developments that impact on the trading environment;
- continue to defend and to advocate the consistency of Canadian cultural policies with Canada's international trade obligations, and to protect the growing importance of the American market to Canada's cultural community;
- work closely with the United States to introduce a number of concrete steps to facilitate cross-border commerce; and
- pursue a range of other initiatives to advance Canadian market access objectives in other areas, such as trade remedies, services, and government procurement.

The remainder of this chapter provides additional detail on key U.S. market access issues for Canada

over the next year. It should not be regarded as an exhaustive inventory of obstacles faced by Canadian firms in the United States, nor as an exclusive list of issues that the Canadian government will pursue.

Exercising Canada's Rights Under Trade Agreements

Extraterritoriality — The Helms-Burton Act
The Helms-Burton Act is designed to chill third country investment in Cuba by exposing foreign nationals who "traffic" in expropriated Cuban property to claims in U.S. courts against that property. It also provides for the denial of entry to the United States of foreign individuals or companies who "traffic" in that property. The legislation violates U.S. obligations under international agreements, notably the NAFTA and the WTO, and is inconsistent with generally recognized principles of international law.

President Clinton suspended the right to sue under Title III of the Act on July 16, 1996 and renewed the suspension for an additional period of six months on January 3, 1997. The President's decision to renew the suspension, however, did nothing to address the long term problems of the legislation. The Act still imposes the U.S. embargo of Cuba extraterritorially on other countries. In addition, liability for Canadian companies has been accruing under Title III of the Act since November 1, 1996, and a number of companies, and their personnel, have received letters under Title IV advising them they will be barred entry to the United States.

Accordingly, Canada has taken both domestic and multilateral measures to oppose the Helms-Burton Act. Amendments to the Foreign Extraterritorial Measures Act entered into force January 1, 1997. The amendments will block any attempt to enforce Helms-Burton judgments in Canadian courts, and allow Canadian companies to sue in Canadian courts to recover any amounts, including costs, awarded against them.

Canada is also participating as a third party in the European Union's challenge of Helms-Burton at the WTO. Panellists were appointed in that proceeding on February 20, 1997, and a timetable has been set. Canada expects to file its third party brief in mid-May 1997. The EU, supported by Canada, will argue, *inter alia*, that the U.S. embargo of Cuba,